

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Gloria Scott was an unsuccessful candidate for the Kern High School District Board of Trustees. The election was held on November 3, 1998. The “Committee to Elect Gloria Scott for Kern High School District Board of Trustee,” (hereafter, the Committee) was her controlled committee. The Committee’s treasurer was Respondent Robert Martinez. Respondents failed to timely file a Late Contribution Report, and three Semi-Annual Statements.

For purposes of this Stipulation, the violations of the Political Reform Act (Act)<sup>1</sup> are as follows:

**COUNT 1:** Failure to timely file a Pre-Election Statement, in violation of Government Code section 84200.7.

**COUNT 2:** Failure to file a Late Contribution Report, in violation of Government Code sections 84203 and 82036.

**COUNT 3:** Failure to timely file Semi-Annual Statements for the periods ending December 31, 1998 and June 30, 1999, in violation of Government Code section 84200.

### **SUMMARY OF THE LAW**

#### **COUNT 1**

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to assure that the contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters will be better informed, and so that improper practices will be inhibited. The Act therefore establishes a campaign reporting system designed to accomplish this purpose.

One feature of the system, found at section 84200.5, subdivision (c), is that all candidates and their controlled committees, for an election that is not being held in June or November of an even-numbered year, shall file pre-election campaign statements according to a schedule set forth in section 84200.8. Section 84200.8, subdivision (a), requires candidates and their controlled committees to file a first pre-election statement no later than forty days before the election, disclosing contributions and expenditures occurring up to forty-five days before the election. Section 84200.8, subdivision (b)

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<sup>1</sup>The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations section 18000, *et seq.* All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

requires candidates and their controlled committees to file a second pre-election statement no later than twelve days before the election, disclosing contributions and expenditures occurring between forty-four and seventeen days before the election. In this case, the first pre-election statement was due October 5, 1998 and the second pre-election statement was due October 22, 1998.

## COUNT 2

A late contribution is any contribution, including a loan, which totals in the aggregate one thousand dollars (\$1,000) or more, that is made to or received by a candidate or a controlled committee, or a committee formed or existing primarily to support or oppose a candidate or measure, before the date of the election at which the candidate or measure is to be voted on, but after the closing date<sup>2</sup> of the last campaign statement required to be filed before the election. (Sec. 82036.)

The recipient of a late contribution must report it by mailgram, telegram, guaranteed overnight mail through the United States Postal Service, or personal delivery, within 24 hours of the time it is received. (Sec. 84203, subd. (b).) Late contribution reporting serves an important function by informing voters of contributions received during the crucial last two weeks prior to an election. The late contribution period for the November 3, 1998 election was from October 18, 1998 to November 2, 1998.

## COUNT 3

Another feature of the system, found at Section 84200, subdivision (a), requires candidates and their controlled committees to file semi-annual campaign statements each year, no later than July 31, to disclose contributions and expenditures that occur during the semi-annual reporting period ending June 30, and no later than January 31, to disclose contributions and expenditures that occur during the semi-annual reporting period ending December 31. Candidates and committees terminate their filing obligation by filing a Statement of Termination. (Gov. Code, section 84214.)

## **SUMMARY OF THE FACTS**

### COUNT 1

Respondents failed to file the 1<sup>st</sup> Pre-Election Statement for the period ending September 30, 1998. During this reporting period Respondents received a \$4,400 loan and made a \$1,701 expenditure. The \$1,701 expenditure was the candidate's filing fee. The loan appears to have been

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<sup>2</sup> The "closing date" for a campaign statement is the date through which the statement must be completed. (Sec. 82010.)

obtained for the purpose of paying the filing fee.<sup>3</sup> The Respondents timely filed their 2<sup>nd</sup> Pre-Election Statement which reported the \$4,400 loan and additional contributions totaling \$1,100. However, while receipt of the \$4,400 loan was reported prior to the election, no information was disclosed regarding the source of the loan, as required.

## COUNT 2

On October 28, 1998, Respondents received a \$1,500 late contribution from the Teachers Association and failed to file a Late Contribution Report.

## COUNT 3

Respondents failed to timely file their semi-annual campaign statements due on February 1, 1999, August 2, 1999, January 31, 2000, July 31, 2000, and January 31, 2001. On August 16, 1999, and on September 13, 1999, the Kern County Clerk's office sent notices to Respondents at the P.O. Box listed on the Committee's Statement of Organization. These notices were returned indicating the box had been closed. On October 18, 1999, the Clerk's office again wrote Respondent Scott to advise her of the delinquent statements and the outdated information on the Committee's Statement of Organization. On that same date Sue Benson of the County Clerk's office also spoke to Respondent Scott by telephone and advised her of her filing obligations and that a late fine of \$100 had been imposed. Ms. Scott stated she would come in that day to pick up the necessary forms and bring the Committee up to date. On March 21, 2000, after Respondents had still failed to file the delinquent statements, the Kern County Clerk referred the matter to the FPPC's Enforcement Division.

On May 11, 2000, Linda Moureaux of the Enforcement Division spoke to Respondent Scott by telephone, advised her of the need to file the delinquent statements and of the possible penalties. Ms. Scott stated that she would file the delinquent statements and send us a copy. Again, she failed to do so.

On January 3, 2001, Investigator Jon Wroten spoke to Respondent Robert Martinez. Martinez committed to filing the delinquent campaign statements.

On February 20, 2001, Respondents filed their Semi-Annual Statement for the period ending December 31, 1998. The Semi-Annual Statement showed that the Respondents received \$11,041 in contributions and made \$12,224.77 in expenditures. The majority of contributions Respondents received were under \$100. The largest contribution received was \$1,500 from the Teacher's Association, \$2,980 in contributions were received after the election. The majority of the Committee's expenditures were for the printing and mailing of campaign literature.

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3. Campaign records show the original check written for the filing fee was in the amount of \$4,310. This check was returned and a subsequent campaign check was made out to the County Clerk for \$1701, for filing expenses.

On March 22, 2001, Respondents filed their Semi-Annual Statement for the periods ending June 30, 1999, December 31, 1999, June 30, 2000 and December 31, 2000. The Semi-Annual Statement for January 1 through June 30, 1999, showed that the committee received \$840 contributions and had \$1,600 in expenditures. The Semi-Annual Statements covering the period July 1, 1999 through December 31, 2000, disclose that the Committee's had no campaign activity during this time and carried a \$151.91 cash balance and an outstanding debt of \$900.

### **ADDITIONAL INFORMATION**

Respondents do not have any prior enforcement history. Respondent Scott attributes her failure to timely file to her being preoccupied with a family member who was having health problems. Respondent Martinez states that he believed Respondent Scott had taken care of the filing requirements. Respondents have paid a \$100 penalty by the Kern County Elections Division for their late filings. Respondents state that this was their first campaign and that they were unfamiliar with campaign reporting obligations. Respondents cooperated with the Enforcement Division by providing the campaign's bank records.

Respondents were required to file a Statement of Organization within ten days of qualifying as a committee. Due to the receipt of the loan of \$4,400 on August 12, 1998, the Committee should have filed a Statement of Organization by August 23, 1998. The Respondents filed a Statement of Organization on October 13, 1998, and noted that their committee had not yet qualified. Respondent Martinez stated that he was not aware of the Committee's filing obligation and was uncertain as to whether the limited campaign activity at that time would serve to 'qualify' the Committee.

This matter consists of 3 counts, which carry a maximum possible administrative fine of Six Thousand Dollars (\$6,000). The facts of the case justify imposition of the agreed upon fine of Three Thousand Dollars (\$3,000).